

CAMDEN PLANNING BOARD
Minutes of Meeting
August 18, 2010

PRESENT: Chair Chris MacLean; Members Jan MacKinnon, Kerry Sabanty and Lowrie Sargent; Alternate Members Nancy McConnel and Sid Lindsley; and Jeff Nims (present CEO) and Steve Wilson (future CEO); Select Board Liaison Deb Dodge

ABSENT: Member Richard Householder

1. PUBLIC COMMENT:

No one from the public came forward.

2. MINUTES:

July 21, 2010:

Page 6: Line 24: The entire paragraph was replaced with the following language to correct and clarify the information:

“Mr. Nims informed the Board that Dan Stewart, a pathways specialist with DOT, has offered to go on a site walk in downtown Camden to discuss ideas that might qualify for the HUD grant program to improve the Downtown/Main Street. Ms. Dodge mentioned that Joanne Ball, the owner of the B&B, the Little Dream, has some ideas for improving crosswalks and controlling foot traffic so they will be used more by tourists - perhaps she could come on this site walk. The Board felt it was better to meet with the State first, then with Ms. Ball. Don White believes there could be anywhere from \$1M to \$2M ...”

MOTION by Mr. MacLean seconded by Mr. Lindsley to approve the Minutes of July 21, 2010 as corrected.

VOTE: 4-0-2 with Mr. Sabanty and Ms. McConnel abstaining due to their absence.

August 04, 2010:

The following change was made to correct an error in summarizing Ms. Brusila’s testimony that was noted by the CEO at the meeting of July 21st.

Page 5: Line 29: “She noted that clear cutting is one tool for foresters to use – but its use must be validated. ~~She does not believe that commercial cutting should be permitted in the High Elevation Area because of the amount of disturbance that will result.~~ , and believes that commercial cutting should be permitted in the High Elevation Area as long as there are sufficient controls in place.”

Page 2: Line 27:

The following language was added at the end of the paragraph: “Mr. Nims did suggest that the Applicant would be provided with a copy of the Notice of Decision. He will work with Town Attorney Bill Kelly to see if they can find language to put into the NOD that would make it clear that compliance is voluntary not mandatory. They can take that Notice to the bank if they have a Plan that was non-compliant.”

MOTION by Mr. MacLean seconded by Mr. Sargent to approve the Minutes of August 4, 2010 with corrections.

VOTE: 6-0-1 with Mr. Sabanty abstaining due to his absence and Ms. McConnel abstaining because she had not had time to review the minutes.

The Board discussed how to avoid duplicating copying of minutes – some print their copies at home only to arrive at the meeting to find other copies there. Mr. Sargent believes it is not only a waste of time and effort, but of paper. Several Board members volunteered to always bring their own copies – the number of copies made by the Code Office will be reduced accordingly.

3. PUBLIC HEARING:

Proposed Ordinance Amendments

As part of the process in moving these amendments to Town vote in November, the Board held the 1st of two Public Hearings. There were no members of the public present and the Chair went directly to Mr. Nims for a summary without reading procedures.

Zoning Ordinance

1. *Amend Article III, Definitions, GREAT POND, by adding the following sentence:*

Any pond known as GPA, pursuant to 38 M.R.S.A. Article 4-A, Section 465-A.

A housekeeping change to clarify the term “GPA”.

2. *Amend Article III, Definitions, by deleting the definition of “Wetlands, Coastal”.*

A DEP review of the Shoreland section found this duplication in definitions and recommended that Camden use the more current of the two. This is a housekeeping change made to do that.

3. *Amend Article VI, Nonconformance, Section 2, Nonconforming Lots, (2), (b), last sentence as follows:*

This change assigned purview for review of this nonconformity.

4. *Amend Article VII, Zoning Board of Appeals, Section 3, Powers and Duties, (4) as follows:*

To approve, approve with conditions, or disapprove requests to:

(a) change a nonconforming use such that it is less nonconforming or no more nonconforming than the lawfully existing situation, as authorized in Article VI, Section 3;

(b) divide a single lot of record that has two or more principal uses or structures, as authorized in Article VI, Section 2, (2), (b);

(c) relocate a nonconforming structure that is located ~~with~~ within¹ the shoreland setback area, as authorized in Article VI, Section 6, (2);

(d) reconstruct or replace a nonconforming structure located within the shoreland setback area, as authorized in Article VI, Section 6, (3)

These changes were made to catch up to the revised ordinance and correct cross-references.

5. *Amend Article XII, Site Plan Review, Section 4, (5) as follows:*

In addition to items (a), (c), (d), (l), (m), ~~and~~ (o) and (q) in Section 3, applications for Piers, Wharves, Breakwaters and Boat Ramps shall include:

A minor correction to add back the requirement for a signature block on the Plan.

6. Amend Article XII, Site Plan Review: (*See attached “Design Standards”*)

Institutes review standards for the B1, BTH and BTR for certain renovations – a mandatory review with voluntary compliance.

The Public Hearing was closed without comment.

¹ This correction made at meeting of 8/04/2010 was considered by the Board not to be a substantive change so the amendment can be sent forward without further delay.

Subdivision

1. *Amend Article 9, Inspections and Enforcement, Section 4, by adding the following sentence:*
No subdivision road shall be presented to the voters for acceptance until at least 75% of the subdivision lots have been built and issued certificates of compliance issued.² This change was made to ensure that only residential structures would count toward the 75% threshold and not buildings like storage sheds.

2. *Amend Article 10, Performance Guarantees, Section 1, as follows:*

The Final Plan shall be accompanied by a performance guarantee, or, at the sole discretion of the Planning Board, a conditional agreement. ~~Performance guarantees are not required for all utilities in minor subdivisions.~~³

Both amendments had been made at the request of the Board and Mr. Nims is of the opinion that they are good improvements to the Ordinance.

The Public Hearing was closed without comment.

ZO Amendment #1: MOTION by Mr. Sabanty seconded by Ms. MacKinnon to approve Zoning Amendment #1 and send it forward to the Select Board for a public hearing and inclusion on the Town Warrant.

VOTE: 6-0-0

ZO Amendment #2: MOTION by Mr. Sargent seconded by Ms. MacKinnon to send Zoning Amendment #2 forward to the Select Board for their approval and public hearing and inclusion on the Special Town Ballot.

VOTE: 6-0-0

ZO Amendment #3: MOTION by Ms. MacKinnon seconded by Mr. Sabanty to send #3 amending Article VI, Nonconformance, on to the Select Board for their approval.

VOTE: 6-0-0

ZO Amendment #4: MOTION by Mr. Sargent seconded by Ms. MacKinnon to approve send #4 on to the Select Board for their consideration and inclusion on the Special Town Ballot in November.

VOTE: 6-0-0

ZO Amendment #5: MOTION by Ms. McConnel seconded by Ms. MacKinnon to send Amendment #5 forward to the Select Board for their approval.

VOTE: 6-0-0

ZO Amendment #6: MOTION by Mr. Sargent seconded by Ms. MacKinnon to send Zoning Amendment #6 forward to the Select Board for their consideration and inclusion on the November Special Town Warrant.

VOTE: 6-0-0

² This revision made at meeting of 8/04/2010 was considered by the Board not to be a substantive change so the amendment can be sent forward without further delay.

³ This revision made at meeting of 8/04/2010 was determined by the Board not to be a substantive change so the amendment can be sent forward without further delay.

SDO Amendment #1: MOTION by Ms. MacKinnon seconded by Ms. McConnel to approve Subdivision Amendment amending Article 9 with the aforesaid changes and send it forward to the Select Board for a public hearing and inclusion on the Town Warrant.

VOTE: 6-0-0

SDO Amendment #2: MOTION by Mr. Sargent seconded by Ms. MacKinnon to approve Subdivision Ordinance Amendment #2 as changed and send it forward to the Select Board for their consideration and inclusion at the November Special Town Meeting.

VOTE: 6-0-0

The Board was reminded that the Select Board will hear these amendments at their meeting on September 7, 2010. There will be a representative of the Planning Board attending.

DISCUSSION:

1. *Site Plan Review pre-applications:* There were none.

2. *Minor Field Adjustments:* There were none.

3. *High Elevation Timber Harvesting:*

~~The Board was provided with a packet from Howard (and Dee) Wright containing the following:~~

- ~~• A copy of an email from Jeff Nims to Paul Miller dated 7/15/2010 asked six questions with regard to Mr. Wright's proposal to cut his land~~
- ~~• Mr. Wright's undated response to Mr. Nims' questions~~
- ~~• An aerial view (Google Earth) of Mr. Wright's property~~
- ~~• An email from Mary Bok's attorney, Thomas Karod, to Mr. Wright outlining an agreement between the Boks and Mr. Wright regarding a ROW over the Bok's land~~
- ~~• Mr. Wright's undated response to that proposed agreement~~
- ~~• An overview of Mr. Wright's ownership of his woodlot~~

~~This information will be added to the High elevation Forestry file.~~

Mr. Nims spoke with Andy Schultz, Landowner Outreach Forester, at the Maine Forest Service. He said that as a matter of policy, the State prefers to have only the State standards, and they don't encourage towns to develop their own timber harvesting standards. When Camden's High Elevation Forestry standard was developed the state did not require review of ordinances. But since the Forest Practices Act is now in place, any amendment to that standard will probably require State review and approval. But since Camden has performance standards and not an actual timber harvesting ordinance, their review rules may not apply – he is going to check with Bill Kelly to see what he thinks. If they do the rules and procedure are fairly stringent, including one that requires a first class mailing to all landowners in the municipality. In Camden's case that would be about \$1500. That cost would be reduced if the mailing only had to go to landowners in an affected zone.

The Shoreland Timber Harvesting will be under the Department of Conservation when and if a certain number of towns in Maine vote on an individual basis to let the State regulate that aspect of the Shoreland. It is part of their effort to put the State in charge of all timber harvesting.

The State does have a rule covering high elevation forestry – and it starts with forests located at over 2200'. Mr. Schultz cautioned that cutting at high elevations may be done at a loss; in part

due to the poor thin soils found at these elevations the trees are small without commercial use. They divide their regulations into non-commercial uses and pre-commercial uses. He noted that cutting for timber management is not necessarily commercial timber harvesting – smaller trees may be cut and not taken for market but left to decay. The State uses the terms “non-commercial” and “pre-commercial” harvesting. Pre-commercial probably refers to activities to improve a stand of trees so they are worth more when they are finally harvested – thinning but not selling. Mr. Wright’s activity to take out trees damaged by the ice storm may be classified as pre-commercial because it would be done to improve the lot. Mr. Wright needs the project to be commercially viable, however, in order to find someone that will do the work.

The name of the District Forester for this area is Mort Mosswilde if the Board ever feels they need his assistance in working with this revision.

4. Possible Amendments for June

Mr. Sargent noted that there will probably be all of the Gateway 1 amendments on the June ballot, and past experience has shown that voters can handle only so many amendments before they “choke” – everything could get voted down just because of the sheer number of questions. Members agreed that Timber Harvesting should be kept on the active list, and Mr. Nims went through others that the Board has worked on in the past or said they want to work on: Home Occupation (there is a draft ready to consider), Wind Energy, and Property Maintenance among them. Ms. MacKinnon suggested that Timber Harvesting be put at the front of the list since so much time has been spent on the subject. Mr. Sargent suggested that they find out what they can do, if anything. The Town may need an opinion from the Attorney General’s Office whether or not the rules apply. MMA may be able to offer an opinion and assistance if needed.

With the recent death of Matt Simmons the Convention Center amendment may not resurface, time will tell. Mr. Nims was asked if there are some that he prioritizes because they might be an easy fix or that need to be done to make the CEO’s job easier. Mr. MacLean said that he personally is not looking forward to dealing with another controversial issue, and wants to stay away from those. The Board has worked long and hard, seeking public input at every step, only to have the Select Board reject their work based on last minute opposition by the public. He is not ready to spend that kind of time and work again on an issued that could meet the same fate.

The one that Mr. Nims would give a high priority to is the issue with fast food and sit down restaurants. There are more and more sit down restaurants that offer fast food or take out. The problem is that in the B1 anything that isn’t a sit down it is limited to 20 seats. With the way the ordinance is currently written, if you have anything that is fast food it kicks you out of sit down and you are limited to 20 seats. A change could be made to the ordinance acknowledging that both uses could take place within the same establishment as long as the fast food seats didn’t exceed 20. The definition of fast food includes food served over a counter available after a short waiting time or for takeout. This eliminates any sit down restaurant offering take out which is done everywhere – this is something that has just been overlooked for enforcement because it doesn’t have any real impact, but it should be clarified. Mr. Nims thinks that the origin of limiting the number of fast food seats was to discourage chains from coming to Town because they couldn’t have enough seats to make it viable. Other aspects of sit downs are food served at the table and food served on non-disposable plates. Some places are a mix and this would be a business-friendly change.

The Property Maintenance issue is not one the Board is anxious to tackle again, but there are still places in Town that need to be addressed. There are too many components that involve property rights.

The Board will work on the High Elevation timber issue and the Sit Down/Fast Food issue.

5. September 1st Meeting:

Route 105 boat ramp – SPR?

Mr. Nims explained that the Town has been working with the State on possible improvements to the Megunticook Lake boat ramp on 105. The State is exempt from local permitting and review unless the town informs the State Bureau of Public Improvements that they want to conduct such reviews – Camden never has. The 105 property, unlike the State-owned Route 52 boat ramp, is Town-owned land, and the project will require Site Plan Review. The Town is going to lease Sonny Goodwin's land across the road and that will be used for parking during the summer months – there will be no parking on the water side. The plan on this site is to disturb 13,000SF of surface (grading for gravel surface) and that requires SPR. The Town has submitted an application for Site Plan, but the State is not sure that they will be able to do the work this fall because they need to get all their approvals before Sonny starts putting his floats there for the winter. On the other side of the road, they may try to get under way here if they can't do Sonny's this fall. Things are still up in the air, but Mr. Nims recommended that they at least go forward with the Site Plan application so it is in place.

Ms. McConnel asked if the State will slow down traffic on Route 105 through this area to address the traffic that will now be crossing the road – people go awfully fast through this area. Ms. MacKinnon noted that both ends of the road at that point are blind – a hill on one end and a curve on the other. And, a lot of cyclists use that road, and there are people on the bridge fishing. Mr. Sargent informed the CEO that as he was driving across the road headed to Sonny's lot he bottomed out – they may need to look at working on more of this area than they are currently talking about. They will also need some stacking distance. Jeff will pose these issues to Tom Linscott, the State's contact for this project.

The Chair asked that a discussion of basic protocol be added to the Discussion List for the next meeting: Board Protocol and Procedures, Conflict of Interest, Freedom of Information Act, Sunshine Act, Television Etiquette, etc. With the new CEO coming on board it is a perfect time for a refresher on these subjects.

There being no further business before the Board they adjourned at 6:30 pm.

Respectfully submitted,
Jeanne Hollingsworth, Recording Secretary